IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6829 of 2007()

CC.732/1999 of J.M.F.C.-III, PUNALUR

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PETITIONER/1ST ACCUSED:

JOY, S/O. JOHN,
PUTHENVEEDU, KOTTARAMUKALU VILA, MANJAKKALA,
THALAVOOR VILLAGE, PATHANAPURAM TALUK, KOLLAM DIST

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENTS:

THE STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
UNDER KUNNIKODU POLICE STATION THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6829 OF 2007

Dated this the 5th day of November, 2007

ORDER

The petitioner faced indictment in a prosecution for offences punishable, inter alia, under Secs.379 and 506(ii) read with Sec.34 of the IPC. The petitioner was not available for trial. The co-accused have been found not guilty and acquitted by now. The case against the petitioner/the 1st accused has been split up and the same is pending. Coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him. According to the petitioner, he is absolutely innocent. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by

the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge